

VIRGINIA BOARD OF OPTOMETRY
BOARD MEETING
FEBRUARY 7, 1997
RICHMOND, VA

TIME AND PLACE: The meeting was called to order at 8:05 a.m. on Wednesday, February 7, 1997, at the Embassy Suites, 2925 Emerywood Parkway, Richmond, VA.

PRESIDING OFFICER: Charles W. Harrill, O.D., President

MEMBERS PRESENT: John L. Howlette, O.D.
Lowell H. Gilbert, O.D.
Samuel C. Smart, O.D.
Thomas Cheezum, O.D.
Anna Weaver-Carr

STAFF PRESENT: Elizabeth A. Carter, Ph.D., Executive Director
Carol Stamey, Administrative Assistant
Howard Casway, Assistant Attorney General

OTHERS PRESENT: No others were present.

QUORUM: With six members of the Board present, a quorum was established.

PUBLIC COMMENT: No public comment was presented.

APPROVAL OF AGENDA: Dr. Harrill revised the agenda to reflect the insertion of "Low Vision Rehabilitation" under Board Discussion. Also, the order of the agenda was revised to reflect the approval of Consent Orders as item number 2 and board discussion as item number 3.

On properly seconded motion by Dr. Cheezum, the Board voted unanimously to approve the revised agenda.

EXECUTIVE SESSION: On properly seconded motion by Dr. Dr. Cheezum, the Board voted to convene in Executive Session pursuant to §2.1-344(A)(15) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of approval of Consent Orders.

OPEN SESSION: On properly seconded motion by Dr. Smart, the Board moved to certify that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for Executive Session were heard, discussed or considered during the Executive Session.

RATIFICATION OF CONSENT ORDERS: On properly seconded motion by Dr. Smart, the Board voted unanimously to accept the Consent Order of BILLY D. HALEY, O.D., License No. 0601-002044.

On properly seconded motion by Dr. Gilbert, the Board

voted unanimously to accept the Consent Order of WARREN E. JONES, O.D., License No. 0601-000176.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to accept the Consent Order of SAMUEL KIM, O.D., License No. 0601-002014.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to accept the Consent Order of ARTHUR M. MOODY, O.D., License No. 0601-001169.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to accept the Consent Order of DAVID A. TUFTS, O.D., License No. 0601-002005.

On properly seconded motion by Dr. Smart, the Board voted unanimously to accept the Consent Order of BILLY D. HALEY, O.D., License No. 0601-002044.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to accept the Consent Order of BRIAN L. TOWNSEND, O.D., License No. 0601-000928.

On properly seconded motion by Dr. Howlette, the Board voted unanimously to accept the Consent Order of IRVING SIEGEL, O.D., License No. 0601-000279.

**BOARD DISCUSSION:
SENATE BILL 1174:**

Dr. Gilbert apprised the Board of SB1174 which with a proposed amendment to more specifically clarify laser surgery, would allow optometrists to utilize laser and similar procedures diagnostically.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously that a statement be issued from the Board that Virginia Code §54.1-3200 enacted in the 1996 session clearly and unambiguously prohibits the use of lasers for surgery by an optometrist

On properly seconded motion by Dr. Gilbert, the Board voted unanimously that, after further conversation with Mr. Hasty and upon his approval, a letter be forwarded to Senator Woods addressing optometrists who advertise "laser surgery".

ANTI-TRUST ISSUE:

Joshua Lief, Assistant Attorney General, gave a general overview presentation with regard to price fixing and anti-trust litigation involving contact lenses which the office is currently involved. Virginia has joined 22 other states in a class-action suit against various manufacturers.

LEGISLATIVE ACTIVITY:

Dr. Gilbert and Dr. Carter presented a brief overview of the House and Senate Bills.

**COMMITTEE ON OPTOMETRIC
PROGRAM APPROVAL:**

The TPA law requires the approval of TPA optometric training programs. A committee was appointed to review these programs to include curriculum review and scope of practice. Dr. Gilbert, Dr. Smart and Dr. Harrill will serve on this Committee with Dr. Harrill as chairman.

**EXPIRATION DATE ON
SPECTACLE PRESCRIPTION:**

Dr. Carter generally informed the Board of a complaint letter received by an optician regarding the alleged practice of multiple optometrists automatically recording one year expiration dates on spectacle prescriptions. This has been a frequent complaint by opticians. Each complaint has been handled on a case-by-case basis.

On properly seconded motion by Dr. Gilbert, the Board voted that Dr. Carter respond to the individual complainants and write a newsletter article in the next edition dealing with this issue, specifically reiterating that current regulations address the issue of prescriptions and expiration dates.

Dr. Gilbert also stated for the record that opticians should not have access to patient medical records because of patient-optometrist confidentiality.

**FILLING OF EXPIRED CONTACT
LENS PRESCRIPTIONS:**

Board members related concerns that they were aware of numerous instances in which patients obtained refills on expired prescriptions - through mail order houses and elsewhere.

Board Counsel advised that the Board has no authority over dispensing by individuals not licensed to practice optometry in Virginia. Without this statutory authority, there is little the Board can do even if it can be demonstrated that the practice endangers the public.

This matter and the Board's concerns about mercantile establishment practice were referred to the Legislative and Regulatory Review Committee for further discussion. The Committee is scheduled to meet on March 12, 1997 where it will discuss with Counsel available options for regulatory/statutory amendments to address these issues.

**CLARIFICATION OF OPTOMETRY
ADS IN THE YELLOW PAGES:**

On properly seconded motion by Dr. Cheezum, the Board voted unanimously that advertisements placed in the optometry section of the yellow pages not require an O.D. or Optometrist designation unless advertising under a professional designation.

**CLARIFICATION ON THE USE OF
"BOARD CERTIFIED" IN ADS:**

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to interpret the laws and regulations to permit optometrists who are DPA or TPA certified to use the term "Board Certified" in advertisements.

ROUTINE EYE EXAM - DILATION:

Dr. Harrill reported that an inquiry had been received regarding the performance of the dilation of the eye during a routine eye health examination. It was the consensus of the Board that the appropriateness of dilation of the eye should be determined by practitioners on an individual case basis.

The issue of low vision rehabilitation was tabled for future discussion.

APPROVAL OF MINUTES:

On properly seconded motion by Dr. Howlette, the Board voted unanimously to approve the minutes of the October 11, 1996 meeting.

**REQUESTS FOR CE
EXTENSION:**

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to grant KATHLEEN CLARK, O.D., License No. 0601-000833, the request for a CE extension through March 31, 1997 to obtain the balance of her 1996 CE credits.

On properly seconded motion by Dr. Howlette, the Board voted unanimously to grant DANIEL POLLACK, O.D., License No. 0601-000910, the request for a CE extension through March 31, 1997 to obtain his 1996 CE credits.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to grant EDITH L. MILLER, O.D., License No. 0601-000845, the request for a CE extension through March 31, 1997 to obtain her 1996 CE credits.

PRESIDENT'S REPORT:

Dr. Harrill thanked Dr. Smart for serving on the Board of Health Professions as a representative from the Board of Optometry and thanked Dr. Gilbert for his services on the Board of Health Professions.

COPE/INTERNET: Dr. Harrill apprised the Board of the availability of CE courses available to licensees on the Internet.

On properly seconded motion by Dr. Smart, the Board voted unanimously to accept CE courses through the Internet for which the licensees must provide documentation of an examination and scoring.

NERCOATS: Dr. Harrill reported that effective December 1997, the New York Board of Examiners will be accepting the National Board as one of its certification examinations for clinical practice which will impact the future viability of NERCOATS. A meeting is scheduled ^{New York} in March and each state has been requested to respond as to whether they are planning to continue to support NERCOATS with annual dues and active participation.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to continue to support the NERCOATS

clinical examination one additional year to include the administration of the Virginia Law Examination.

NATIONAL BOARD EXAM REVIEW: Dr. Harrill, who serves on the National Board Examination Review Committee, apprised the Board of item writing needs, a Task Force Review Committee's work to review appropriate testing in Part I, clinical relevancy of new procedures such as punctal plug insertion/removal in Part III.

DEA: Dr. Harrill reported that all optometrists who are TPA certified and intend to use schedule III drugs must have DEA numbers on their prescription pads. He instructed staff that this topic should be included as a newsletter article.

EXECUTIVE DIRECTOR'S REPORT:

ENFORCEMENT OF §54.1-3215: Dr. Carter apprised the Board that there are a number of fee splitting cases involving mercantile establishments which are currently at the investigative level.

INFORMAL CONFERENCE COMMITTEE

NEGOTIATIONS: Dr. Carter reported that when a respondent wishes to negotiate minor language changes in a Consent Order, a second informal conference should be held or the Board has the option of delegating authority to negotiate minor revisions to the chair of the Informal Conference.

On properly seconded motion by Dr. Smart, the Board voted unanimously to delegate to the chair of the Informal Conference Committee the authority to negotiate minor revisions to Consent Orders.

BUDGET: Dr. Carter reported that the 1998-2000 biennium budget would remain at 100%. She also reported that based on projection for the Finance Department, the current budget would result in a \$60,000 deficit at the end of the fiscal year unless the Board chooses to re-employ TPA fees and reduce expenditures wherever possible.

On properly seconded motion by Dr. Gilbert, the Board voted unanimously to resume the TPA application fee of \$300.00 effective 2/7/97.

COMMITTEE REPORTS:

ENDORSEMENT COMMITTEE: No report.

PROFESSIONAL DESIGNATION COMMITTEE: Dr. Howlette requested a computer listing of all Professional Designations.

CONTINUING EDUCATION COMMITTEE: Dr. Smart reported that the majority of CE courses submitted for

review and approval were submitted by individuals and that the number of courses appeared to have decreased.

LEGISLATIVE/REGULATORY REVIEW COMMITTEE: Dr. Gilbert reiterated that the Committee will be scheduling a meeting March 12, 1997 to review the statutes and regulations regarding the issues of practicing in a mercantile establishment and dispensing contact lenses.

NEWSLETTER COMMITTEE: Dr. Harrill noted that articles for the newsletter should be submitted to Dr. Cheezum and that Dr. Howlette would be submitting an article on dilation and diabetics. Additional articles to be included in the newsletter are: DEA, individual CE credits to be maintained by each licensee, TPA numbers are certification numbers not license numbers, and expiration dates on spectacle or contact lens prescriptions.

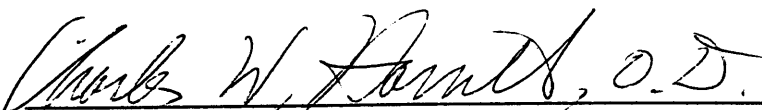
TPA FORMULARY COMMITTEE: Dr. Smart reported to the Board that a brief Committee meeting would be scheduled for March 12, 1997 to address the language to be included in the regulations regarding the treatment protocol of acute angle glaucoma closure and injectables for anaphylactic shock.

NEW BUSINESS:

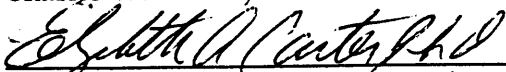
No new business was presented.

ADJOURNMENT:

The Board meeting adjourned 5:20 p.m.



Charles W. Harrill, O.D. - President



Elizabeth A. Carter, Ph.D. - Executive Director